

1 MICHAEL C. HETHEY, ESQ.  
Nevada Bar No. 5668  
2 PHILIP GOODHART, ESQ.  
Nevada Bar NO. 5332  
3 THORNDAL ARMSTRONG DELK  
4 BALKENBUSH & EISINGER  
1100 East Bridger Avenue  
5 Las Vegas, NV 89101-5315  
Tel.: (702) 366-0622  
6 Fax: (702) 366-0327  
[mch@thorndal.com](mailto:mch@thorndal.com)  
7 [png@thorndal.com](mailto:png@thorndal.com)

8 Attorneys for Defendants,  
WERNER ENTERPRISES, INC. and  
9 NICOLAS FORCILLO

10 **UNITED STATES DISTRICT COURT**  
11 **DISTRICT OF NEVADA**

12 DARLENE ISAAC; and HAROLD ROLAND  
HOWMAN, JR.,

13 Plaintiffs,

14 vs.

15  
16 NICOLAS FORCILLO, an individual,  
WERNER ENTERPRISES, INC., a foreign  
17 corporation, DOES I through X, inclusive;  
18 and/or ROE CORPORATIONS I through X,  
inclusive

19 Defendants.

CASE NO. 2:19-CV-01452-KJD-DJA

**STIPULATION AND ORDER TO  
WITHDRAW THE PARTIES'  
MOTIONS IN LIMINE**

**(First Request)**

20 The Parties, Plaintiffs Darlene Isaac and Harold Roland Howman, Jr. ("Plaintiffs"), and  
21 Defendants Werner Enterprises, Inc. and Nicolas Forcillo ("Defendants"), by and through their  
22 respective undersigned counsel of record, hereby stipulate to withdraw Defendants' Motions in  
23 Limine Nos. 1-18 and Plaintiffs' Motions in Limine Nos. 1-14, consistent with the stipulation to  
24 continue trial and submit this case to binding arbitration. On 11/08/22 the Parties filed a  
25 Stipulation to Continue Trial and Notice to the Court of Binding Arbitration [ECF No. 150]  
26 which included a statement the Parties intend to withdraw their respective Motions in Limine as  
27 a byproduct of the agreement to resolve the pending litigation by Binding Arbitration [ECF No.  
28

150, Pg. 2:3-5]. That Stipulation was granted on 11/10/22 [ECF No. 152]. As such, the Parties are submitting this current Stipulation withdrawing the aforementioned Motions in Limine. The Motions in Limine by Defendants and Plaintiffs which are stipulated to be withdrawn are listed below as follows:

**Defendants Werner Enterprises, Inc. and Nicolas Forcillo filed the following Motions in Limine:**

1. Motion in Limine No. 1 to Strike and or Limit Opinions of Dr. Muir Relating to Plaintiff Harold Howman [ECF No. 112, filed 10/21/22];

2. Motion in Limine No. 2 to Strike and or Limit Opinions of Dr. Oliveri Relating to Plaintiff Darlene Isaac [ECF No. 108, filed 10/20/22];

3. Motion in Limine No. 3 to Strike and or Limit Opinions of Dr. Janda Relating to Plaintiff Darlene Isaac [ECF No. 113, filed 10/21/22];

4. Motion in Limine No. 4 to Strike or Limit the Opinions of Brian Jones Regarding the Accident Reconstruction, Accident Forces, and Biomechanical Opinions of Dr. Christopher Chen [ECF No. 109, filed 10/20/22];

5. Motion in Limine No. 5 to Strike and/or Limit Dr. Clauretie's Opinions Regarding Plaintiff Darlene Isaac's Costs and Future Loss of Household Services [ECF No. 114, filed 10/21/22];

6. Motion in Limine No. 6 to Limit or Exclude Multiple Opinions of Plaintiff Harold Howman's Vocational Rehabilitation Expert Delyn Porter [ECF No. 115, filed 10/21/22];

7. Motion in Limine No. 7 to Limit or Exclude Opinions of Plaintiff Darlene Isaac's Vocational Rehabilitation Expert Ira I. Spector [ECF No. 116, filed 10/27/22];

8. Motion in Limine No. 8 to Preclude or Limit the Opinions of Dr. Hogan [ECF No. 119, filed 10/27/22];

9. Motion in Limine No. 9 to Strike the Character Witnesses named by Plaintiffs in their FRCP 26 Disclosures [ECF No. 117, filed 10/27/22];

10. Motion in Limine No. 10 to Preclude Improper "Reptile" Theory Arguments that (1) Jury Should Apply "Safety Rules," (2) Defendants Failed to Take Responsibility for the

1 Accident, and (3) Jury Should Act as Conscience of the Community [ECF No. 118, filed  
2 10/27/22]; and,

3 11. Motion in Limine No. 11 to Preclude Plaintiffs' Treating Physicians from  
4 Testifying to Future Care and Limiting Plaintiffs' Treating Physicians to Their Medical  
5 Treatment in Their Records [ECF No. 120, filed 10/27/22].

6 12. Motion in Limine No. 12 to Exclude Plaintiffs' Computer Animation [ECF No.  
7 124, filed 11/01/22];

8 13. Motion in Limine No. 13 to Preclude the Testimony of Veronica Barnett [ECF  
9 No. 123, filed 11/01/22];

10 14. Motion in Limine No. 14 to Preclude Testimony or Opinion That Any Optical  
11 Condition of Plaintiff Darlene Isaac was Caused by the Subject Accident [ECF no. 126, filed  
12 11/01/22];

13 15. Motion in Limine No. 15 to Preclude Evidence or Testimony Regarding Plaintiff  
14 Harold Howman's Military History [ECF No. 127, filed 11/02/22];

15 16. Motion in Limine No. 16 to Preclude Argument or Testimony Regarding  
16 Intoxication as a Factor in the Accident [ECF No. 130, filed 11/02/22];

17 17. Motion in Limine No. 17 to Preclude Reference to Plaintiff Darlene Isaac's Social  
18 Security Administration Ruling [ECF No. 132, filed 11/04/22]; and,

19 18. Motion in Limine No. 18 to Preclude Discussion of Any Workers Compensation  
20 Claim by Either Plaintiff Beyond the Potential Nevada Jury Instruction Contained in NRS  
21 616C.215 [ECF No. 134, filed 11/04/22].

22 **Plaintiffs Darlene Isaac and Harold Ronald Howman, Jr. filed the following**  
23 **Motions in Limine:**

24 1. Motion in Limine No. 1 Regarding the Absence of Pre-Incident Medical Records  
25 [ECF No. 135, filed 11/07/22];

26 2. Motion in Limine No. 2 Preclude Comments and Queries About Hypothetical  
27 Medical Conditions [ECF No. 136, filed 11/07/22];

28

1           3.       Motion in Limine No. 3 to Preclude Defendant from Making Low Impact  
2 Arguments [ECF No. 137, filed 11/07/22];

3           4.       Motion in Limine No. 4 to Preclude Prior Arrests or Convictions [ECF No. 138,  
4 filed 11/07/22];

5           5.       Motion in Limine No. 5 to Preclude Prior and Subsequent Unrelated Settlements  
6 and/or Injuries [ECF No. 139, filed 11/07/22];

7           6.       Motion in Limine No. 6 to Preclude Reference to Employment Termination [ECF  
8 No. 140, filed 11/07/22];

9           7.       Motion in Limine No. 7 to Preclude Reference of Plaintiff's Narcotic Pain  
10 Medication, Substance, Drug Use, and Abuse [ECF No. 141, filed 11/07/22];

11           8.       Motion in Limine No. 8 to Preclude Defense Experts from Commenting Upon  
12 Plaintiff's Credibility [ECF 142, filed 11/07/22];

13           9.       Motion in Limine No. 9 Exclude Evidence Regarding Plaintiff's Pre-Existing  
14 Conditions or Injuries [ECF No. 143, filed 11/07/22];

15           10.      Motion in Limine No. 10 Limit Opinion of Dr. Dukarm [ECF No. 144, filed  
16 11/07/22];

17           11.      Motion in Limine No. 11 to Preclude Testimony Regarding Stopwatch Test [ECF  
18 No. 145, filed 11/07/22];

19           12.      Motion in Limine No. 12 to Preclude Introduction of Collateral Source  
20 Information [ ECF No. 146, filed 11/07/22];

21           13.      Motion in Limine No. 13 Limit Opinions of Dr. Simpson [ECF No. 148, filed  
22 11/07/22]; and,

23           14.      Motion in Limine No. 14 to Preclude Introduction of Evidence of Rebecca  
24 Howman's Social Security Disability Benefits [ECF No. 147, filed 11/07/22].

25 ///

26 ///

27 ///

28 ///

1 The parties submit this Stipulation to Withdraw the Parties' Motions in Limine in good  
2 faith and not to delay this litigated proceeding; and, ask this Honorable Court to grant this  
3 Stipulation.

4 Dated this 15th day of November 2022.

Dated this 15th day of November 2022.

5 H&P LAW

THORNDAL ARMSTRONG DELK  
BALKENBUSH & EISINGER

6  
7 /s/ Marjorie L. Hauf, Esq.

/s/ Michael C. Hetey, Esq.

8 MARJORIE L. HAUF, ESQ.

MICHAEL C. HETHEY, ESQ.

Nevada Bar No. 8111

Nevada Bar No. 5668

9 MATTHEW G. PFAU, ESQ.

PHILIP GOODHART, ESQ.

Nevada Bar No. 11439

Nevada Bar NO. 5332

10 710 South 9<sup>th</sup> Street

1100 East Bridger Avenue

11 Las Vegas, Nevada 89101

Las Vegas, Nevada 89101

12 Attorneys for Plaintiffs,

Attorneys for Defendants,

DARLENE ISAAC and

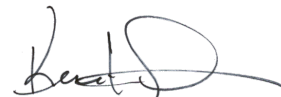
WERNER ENTERPRISES, INC. and

13 HAROLD ROLAND HOWMAN, JR.

NICOLAS FORCILLO

14  
15  
16  
17  
18 **ORDER**

19 IT IS SO ORDERED.

20 

21 UNITED STATES DISTRICT JUDGE  
22  
23  
24  
25  
26  
27  
28